UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte KEVIN J. YOUNGERS

Appeal No. 2006-0830
Application No. 09/911,954

ON BRIEF

Before KRASS, BLANKENSHIP, and SAADAT, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-27.

The invention pertains to digital images and, in particular, to reducing inaccuracies when processing or creating color data. Representative independent claim 1 is reproduced as follows:

1. A method of processing color image data, comprising:

(a) examining the color components of a pixel in the image;

(b) selectively applying a matrix to the color components of the pixel to create an output color component only when the pixel is not in a dark area of the image.

The examiner relies on the following references:

Denber	5,214,470	May 25, 1993
Sobol	5,854,859	Dec. 29, 1998

Claims 1-20, 22-24, and 27 stand rejected under 35 U.S.C. § 102(b) as anticipated by Sobol.

Claims 21, 25, and 26 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers Sobol with regard to claim 21, adding Denber with regard to claims 25 and 26.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), cert. dismissed, 468 U.S. 1228 (1984), citing Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

With regard to independent claims 1, 4, 6, 13-15, 23, 24, and 27, the examiner applies Sobol by pointing to column 2, lines 14-25, for examining color components of a pixel in the image (the examiner asserts that Sobol examines the pixels to determine whether they are of higher intensity or lower intensity), to column 4, lines 30-37, to show that Sobol's method is applicable to pixels with color components; and to column 2, lines 14-25, to show a teaching of selectively applying a matrix (i.e., a filter) to the color components of the pixel to create an output color component only when the pixel is not in a dark area of the image, wherein pixels with low intensity are not filtered with the Laplacian matrix (column 2, lines 56-68).

Appellant argues, taking claim 1 as exemplary, that Sobol does not teach or suggest examining the color components of a pixel and selectively applying a matrix to the color components (plural) to create an output color component (singular). Instead, appellant argues, Sobol appears to apply a matrix to either a single color component or a single lightness coordinate value across a number of pixels to produce a single value with improved contrast (principal brief-page 8). In the reply brief, at pages 2-4, appellant elucidates by providing a Figure 1, allegedly showing how Sobol applies a filter to an array made up of a single color component from each of several pixels, whereas the instant invention applies a matrix to multiple color components of a single pixel.

We start our analysis with the language of the claim at issue. "The name of the game is the claim"- quote from Giles Rich. In re Hiniker, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998).

Claim 1 calls for a "method of processing color image data." Surely, the image sharpening filter of Sobol, with its indication of being applicable to "color" (column 4, lines 31-37) qualifies as such a method.

The claim recites that the method comprises "examining the color components of a pixel in the image." As the examiner pointed out, column 2, lines 14-25, of Sobol indicates that the application of filtering is a function of intensity of the pixel. Therefore, it is clear to us that Sobol discloses an examination of the components of a pixel in the image, as the pixel must be "examined," as broadly claimed, in order to determine its intensity value. Since Sobol also indicates, in column 4, that the method is applicable to "color," it is clear that the artisan would have understood that there is an examination of color components of a pixel in Sobol.

The claimed method next calls for "selectively applying a matrix to the color components of the pixel to create an output color component only when the pixel is not in a dark area of the image." Column 2, lines 18-19, of Sobol recites that pixels with low intensity (i.e., in the dark area), receive little or no filtering, i.e., a matrix is not applied when the pixel is in a dark area. Conversely, filtering (a matrix) is applied to the pixel (to the color components of a pixel when using color) only when the pixel is not in a dark area of the image, as claimed. As far as creating an output color component, when the filter (matrix) is applied in Sobol, clearly, the image resulting from the

filtering technique is an image with color components or a color component. To the extent appellant argues that the claim requires only a single (i.e., "an") output color component, we agree with the examiner that the claim is open ended ("comprising") and is not limited to a single output color component. Sobol definitely discloses at least "an output color component" and maybe more than one component which is not precluded by the instant claim language.

Similarly, we are not persuaded by appellant's argument anent a claimed single (i.e., "a") pixel. Perhaps Sobol discloses examining color components of more than a single pixel in an image, but we do not find this precluded by the instant claim language.

Accordingly, we will sustain the rejection of independent claim 1 under 35 U.S.C. § 102(b).

Appellant also argues, with regard to claims 4-20, 22-24, and 27, that Sobol "does not describe processing multiple color components of a pixel with a matrix *as the process is defined in Applicant's specification*" (reply brief-page 4 - emphasis added), but we cannot read limitations from the specification into the application claims. In re Winkhaus, 527 F.2d 637, 188 USPQ 129 (CCPA 1975). The claim language is not in means-plus-function or

step-plus-function format, requiring reference to the specification to ascertain the specific meaning of such language within the meaning of 35 U.S.C. § 112, sixth paragraph. In construing a means-plus-function limitation, as explained in In re Donaldson, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848-49 (Fed. Cir. 1994), we must identify both the claimed function and the corresponding structure in the written description for performing that function.

Under 35 U.S.C. § 112, paragraph 6, functional limitations that are not recited in the claim, or structural limitations from the written description that are unnecessary to perform the claimed function may not be imported into the claims. Micro Chem., Inc. v. Great Plains Chem. Co., 194 F.3d 1250, 1258, 52 USPQ2d 1258, 1263 (Fed. Cir. 1999); citing Rodime PLC v. Seagate tech., Inc., 174 F.3d 1294, 1302, 50 USPQ2d 1429, 1435 (Fed. Cir. 1999).

Specifically with regard to claims 4 and 5, appellant argues, at page 9 of the principal brief, that Sobol does not teach or suggest transforming the color components of a pixel when any of the color components are greater than a threshold, and that Sobol does not teach or suggest preserving the pixel when none of the color components exceed the threshold because, in Sobol, it appears that each color component is handled separately.

The examiner contends that such a threshold is disclosed at column 4, lines 24-30, wherein a value of 60 intensities is chosen, so that "the darkest 60 intensities are not filtered at all" (column 4, line 29). Reading the color components of the pixel is disclosed at column 2, lines 14-25, wherein pixels are examined to determine their relationship to the threshold. The color components are then transformed with a matrix (filter) when any of the color components are greater than the threshold and otherwise the pixel is preserved (column 4, lines 24-30; i.e., pixels with intensities below 60 are not filtered).

We view the examiner's application of Sobol to the claim 4 limitations to be at least reasonable and appellant merely generally argues that Sobol does not teach or suggest the claimed subject matter without particularly pointing out any error in the examiner's rationale. Accordingly, we will sustain the rejection of claims 4 and 5 under 35 U.S.C. § 102(b).

Similarly, with regard to claims 6-20, the examiner has set forth a reasonable rationale, at pages 4-9 of the answer. Yet, appellant's arguments, at pages 9-12 of the principal brief, are mere general allegations that Sobol does not teach or suggest the claimed subject matter with no explanation as to what, if any,

error exists in the examiner's rationale. Accordingly, we will sustain the rejections of these claims under 35 U.S.C. § 102(b).

Again, with regard to claims 22-24, and 27, the examiner sets forth a reasonable basis for anticipation by specifically pointing out where the various claimed limitations can be found in Sobol (see pages 9-11 of the answer), and appellant's only arguments are general denials (see pages 12-13 of the principal brief), without any specifics as to why he believe the examiner's rationale is in error. Accordingly, we will sustain the rejection of these claims under 35 U.S.C. § 102(b).

Thus, since appellant's arguments are not persuasive and the examiner's rationale, in our view, constitutes a prima facie case of anticipation, within the meaning of 35 U.S.C. § 102(b), we will sustain the rejection of claims 1-20, 22-24, and 27 under 35 U.S.C. § 102(b).

Turning to the rejection of claim 21 under 35 U.S.C. § 103, the examiner recognized that Sobol does not specifically teach a range around the threshold of approximately two eight bit counts, but held that such a range would have been obvious to the artisan since appellant does not disclose any particular advantage or

purpose for this specific range and the artisan would have expected an equally obvious result within this range and the range disclosed by Sobol.

Appellant's response is to merely rely on the arguments set forth anent independent claim 15 (see page 15 of the principal brief). Accordingly, since we sustained the rejection of claim 15 under 35 U.S.C. § 102(b), we will also sustain the rejection of claim 21 under 35 U.S.C. § 103.

With regard to the rejection of claims 25 and 26 under 35 U.S.C. § 103, the examiner specifically points out, at page 12 of the answer, how Sobol is applied against the claims, noting that Sobol does not disclose the camera comprising a lens system that forms an image on the photo sensor, and relies on Denber for such a teaching at Figure 1, items 20 and 22.

Appellant's response, at pages 15-16 of the principal brief, is to, again, merely issue a general allegation of the references not teaching or suggesting the claimed subject matter, but appellant fails to point out any error in the examiner's rationale. The more specific argument at page 5 of the reply brief merely reiterates the earlier argument about Sobol not describing color

components and that we should look to the specification in order to determine what the claims mean. We disposed of these arguments supra. Accordingly, we will sustain the rejection of claims 25 and 26 under 35 U.S.C.
§ 103.

The examiner's decision rejecting claims 1-20, 22-24, and 27 under 35 U.S.C. § 102(b) and claims 21, 25, and 26 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

ERROL A. KRASS Administrative Patent Judge	)	
HOWARD B. BLANKENSHIP Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
MAHSHID D. SAADAT Administrative Patent Judge	)	

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